



FH  
[REDACTED]

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MOP/166580

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**PRELIMINARY RECITALS**

Pursuant to a petition filed June 12, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Waukesha County Health and Human Services in regard to Medical Assistance, a hearing was held on July 21, 2015, at Waukesha, Wisconsin. The record was held open to obtain additional records from the agency.

The issue for determination is whether Petitioner was overpaid BadgerCare+ benefits.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Kathy Jones

Waukesha County Health and Human Services  
514 Riverview Avenue  
Waukesha, WI 53188

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Waukesha County.
2. Petitioner was sent a BadgerCare+ overpayment notice dated June 3, 2015 that informed Petitioner that she had been overpaid BadgerCare+ benefits in the amount of \$1341.91 for the period of November 2014 through June 2015 as a result of failing to report income in excess of BadgerCare+ income limits.

3. An August 2014 Notice of Decision did inform Petitioner that she had to report income in excess of \$972.50.
4. Petitioner's income did exceed \$972.50 as of August 2014 and that was not reported.
5. Petitioner married in November 2014. Case notes do not reflect that this was reported to the agency.

### **DISCUSSION**

The Department may recover any overpayment of medical assistance that occurs because of the following:

1. A misstatement or omission of fact by a person supplying information in an application for benefits under this subchapter or s. 49.665 [BadgerCare].
  2. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report the receipt of income or assets in an amount that would have affected the recipient's eligibility for benefits.
  3. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report any change in the recipient's financial or nonfinancial situation or eligibility characteristics that would have affected the recipient's eligibility for benefits or the recipient's cost-sharing requirements.
- Wis. Stat. § 49.497(1).*

Overpayments can be recovered only where a person is informed of the need to report. *BadgerCare+ Eligibility Handbook (BEH)*, §28.1. Notice of an overpayment is required. *BEH*, §28.5 and §29.1. Both notices were provided here. Further, a change in marital status is a mandatory reporting event. *BEH*, §27.2. The change must be reported within 10 days. *Id.* The August 29, 2014 Notice of Decision sent to Petitioner clearly state this.

BadgerCare+ is Wisconsin's Medicaid program for those who are not elderly or disabled. Effective April 1, 2014, Wisconsin state law changed and lowered the amount of adjusted gross income a household can have and still be eligible for benefits to 100% of the Federal Poverty Level for adults and 300% for children. *Wis. Stat. § 49.471(4)(a)*. This change was to be effective January 1, 2014 but was held off until April 1 to assure coordination with other changes in healthcare options; especially the Affordable Care Act. 100% of the Federal Poverty Level for a 1 person household was \$972.50 from early 2014 through January 31, 2014 and then increased to \$980.83 per month as of February 1, 2015. *BadgerCare+ Eligibility Handbook (BEH)*, §50.1. For a group of two 100% of the FPL was increased to \$1327.50 as of February 1, 2015. *Id.*

Petitioner maintains that she canceled her BC+ in November 2014 but the agency has not record of that and Petitioner has not documented it.

I am sustaining the overpayment. During the time involved here Petitioner's gross income alone exceeded the 100% FPL standard for even a household of 2 for the standard effective February 1, 2015.

### **CONCLUSIONS OF LAW**

That the agency correctly concluded that Petitioner had been overpaid BadgerCare+ benefits by failing to correctly report income.

**THEREFORE, it is**

**ORDERED**

That this appeal is dismissed.

**REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

**APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 2nd day of September, 2015

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\sDavid D. Fleming  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on September 2, 2015.

Waukesha County Health and Human Services  
Public Assistance Collection Unit  
Division of Health Care Access and Accountability